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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,027	06/29/2001	Olaf Isele	8610	7458
27752	7590 12/01/2003	EXAMINER		
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE			CHANNAVAJJALA, LAKSHMI SARADA	
			ART UNIT	PAPER NUMBER
			1615	10
CINCINNAT	i, OH 45224		DATE MAILED: 12/01/2003	10

Please find below and/or attached an Office communication concerning this application or proceeding.

P	2	
	Application No.	Applicant(s)
	09/895,027	ISELE ET AL.
Office Action Summary	Examiner	Art Unit
	Lakshmi S Channavajjala	1615
The MAILING DATE of this communication a Period for Reply	ppears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR of after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a recommendation of the period for reply is specified above, the maximum statutory perions are reply within the set or extended period for reply will, by state.  - Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).  Status	I. 1.136(a). In no event, however, may a reply be eply within the statutory minimum of thirty (30) d od will apply and will expire SIX (6) MONTHS fro tute, cause the application to become ABANDO	timely filed lays will be considered timely. om the mailing date of this communication. NED (35 U.S.C. § 133).
1) Responsive to communication(s) filed on <u>09</u>	September 2003.	
2a) This action is <b>FINAL</b> . 2b) ⊠ Thi	is action is non-final.	
3) Since this application is in condition for allow closed in accordance with the practice under		
Disposition of Claims		
4)  Claim(s) <u>1-20</u> is/are pending in the application 4a) Of the above claim(s) is/are withdrest 5)  Claim(s) is/are allowed.  6)  Claim(s) <u>1-20</u> is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and	rawn from consideration.	
Application Papers		
9) The specification is objected to by the Examination The drawing(s) filed on is/are: a) and a specificant may not request that any objection to the Replacement drawing sheet(s) including the correction.  The oath or declaration is objected to by the specific specif	ccepted or b) objected to by the one drawing(s) be held in abeyance. Section is required if the drawing(s) is constant.	See 37 CFR 1.85(a). objected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. §§ 119 and 120		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume 3. Acknowledgment is made of a claim for domes since a specific reference was included in the safe translation of the foreign language priority. Acknowledgment is made of a claim for domes included in the safe translation of the foreign language priority. Acknowledgment is made of a claim for domes reference was included in the first sentence of	ents have been received. Ents have been received in Applicationity documents have been received (PCT Rule 17.2(a)). Ents of the certified copies not receive stic priority under 35 U.S.C. § 119 first sentence of the specification provisional application has been restic priority under 35 U.S.C. §§ 12	ation No ived in this National Stage  ved. 9(e) (to a provisional application) or in an Application Data Sheet.  eceived. 20 and/or 121 since a specific
Attachment(s)		
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) 🔲 Notice of Informa	ary (PTO-413) Paper No(s) al Patent Application (PTO-152)

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## **DETAILED ACTION**

Receipt of request for continued examination and response dated 9-9-03 is acknowledged.

Claims 1-20 are presented for examination.

## Claim Rejections - 35 USC § 103

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/64502 (hereafter WO).

Instant claims are directed to an article such as a diaper or a sponge, comprising a porous substrate having a contacting surface and an opposing surface, wherein the contacting surface is disposed with a s beneficial agent and a means for minimizing migration of the beneficial agent into the porous substrate, whereby the ratio of the amount of beneficial component present in the top third portion of the substrate is about 2.2 times the amount of the beneficial agent present in the bottom 2/3 portion of the substrate. Dependents claims further define beneficial agents, disposing the beneficial agent in layers and method of top-biasing a composition on a porous substrate. Independent claim 9 recites a first layer of 5% to 95% of beneficial component on the contacting surface followed by a depositing a second layer. Independent claim 16 recites a method of top-biasing article by applying a first layer of relatively hydrophilic component followed by applying a relatively hydrophobic component allowing the first and second layers to cool without formation of an emulsion.

WO teaches an absorbent article having a liquid impermeable outer surface, a middle absorbent portion and a top liquid permeable bodyside liner facing the wearer (see figure 2 of WO). WO teaches that the bodyside liner may be made of woven or nonwoven materials, less hydrophilic to be dry, porous (page 12, lines 15-32). The bodyside liner includes a lotion

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formulation on the outer bodyfacing surface and is comprises wax, emollient and a viscosity enhancer, that acts as a lubricant to reduce the abrasion of skin caused by liner and also transfers to the skin to provide improved skin health (abstract, page 13, lines 15-22) including fatty alcohols, lanolin or lanolin derivatives, petroleum based oils (page 13, lines 22-35), waxes for immobilizing the emollient and reduce its tendency to migrate (page 14), viscosity enhancers such as talc, silica, cellulose and modified cellulose derivatives and other skin treating compounds such as glycerin, zinc oxide, etc (page 15 and 16).

WO does not teach the claimed thickness of the beneficial components on the porous substrate i.e., 2.2 times more in the top third portion of the porous substrate than the bottom 2/3 portions. Further, WO teaches the lotion can be applied to the bodyside liner at 0.05-100 mg/sq. cm. Accordingly, it would have been within the scope of a skilled artisan to optimize the amounts of lotion applied on the absorbent applied on the article. The expected result would be a minimum migration of the solidified components applied to the bodyside line. A careful review of the instant specification also reveals that the same end result i.e., minimizing the migration of lotion is achieved by the applicants by incorporating viscosity enhancing agents (page 18) and hydrophobic agents such as wax, both of which are taught by WO. Further, WO states that a zdirection migration loss test shows that the migration of the lotion on the absorbent article is very low. With respect to the claims 9 and 16, WO does not explicitly teach layers of beneficial component or disposing a first hydrophilic layer followed by a hydrophobic layer. However, WO suggests limiting the lotion to restricted areas of the article such that migration to the interior or lateral migration of the absorbent body is not observed. Further, WO teaches applying the lotions to discreet areas as stripes as full length or a portion of the article and further in an add-on level,

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including the claimed steps of applying the component and solidifying (page 19). WO also teaches deposition of wax, emollients and other viscosity enhancers such as celluloses, silica, petrolatum, aloe etc., all of which read on instant hydrophilic components, along with emollients and wax (hydrophobic) in the lotion formulation. WO suggests that the lotion formulation be applied to the entire body face or may be applied selectively to particular sections, so as to provide greater lubricity to such sections and can be applied in stripes (page 18, lines 26-33) and suggests adding the lotion to about 25% of the body facing surface of the bodyside liner. Therefore, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to apply the lotion composition in a desired thickness or amounts with an expectation to exhibit minimum migration because WO suggests that the wax and viscosity enhancer containing lotion solidifies at the site of deposition due to the high melting agents and therefore do not migrate from their position (paragraph bridging pages 2-3). Further, adding the beneficial agents, hydrophobic or hydrophilic or both, in discreet patterns such as layers or stripes etc., and allowing the component to result in a proper composition, such emulsion formation or suspension or solution without affecting the optimum migration of the beneficial components would have been within the scope of a skilled artisan.

## Response to Arguments

Applicant's arguments filed 9-9-03 have been fully considered but they are not persuasive.

Applicants argue that office showing that claimed requirements are obvious for one of an ordinary skill in the art from the teachings of WO is insufficient because the minimizing

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migration taught by WO does not teach how to solve the problems known in the art and that there is no evidence that even if applied in a particular thickness, the prior art viscosity enhancers would render the claimed result. In this regard, applicants argue that WO requires that the minimum migration is in the range of 55%, while instant top-biasing result in claim 1 results in 45% or less. Thus, it is evident from applicants' own admission that the only difference between instant and WO teachings is in the degree of minimum migration. In response to this argument, applicants attention is directed to page 17 of WO, where it is clearly suggested that preferably the migration loss is no more than 55%, preferably no greater than 40%, more desirably no more than 35%. Thus, it is clear that both instant invention and WO desire the same result. Applicants argument that office used applicants own disclosure of viscosity enhancers in rejecting claims is not persuasive because, as clearly explained in the previous action and also above, WO teaches the importance of viscosity enhancers and their application on the absorbent article, so as to achieve minimum migration. Applicants' argument that the disclosed viscosity enhancer of instant application is optional and not essential is moot because, instant claims do not recite any specific viscosity enhancer and instead generally states "a means", that encompasses any type of component that achieves the function, including applicants' and thus does not exclude the one described by applicants. Applicants argue that examiner has not made prima facie case obviousness for the subject claims 9 and 16 9independent claims). Examiner has presented a further explanation of obviousness of the instant claims in this action. For the reasons above, the instant rejection is deemed to be proper.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Lakshmi S Channavajjala

Examiner
Art Unit 1615

November 28, 2003